



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456



May 22, 2002

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Charles Crowley, Jr.
2000 Disposal, Inc.
HC 66 Box 194
South Effingham, NH 03882

Re: Administrative Order No. WMD 02-11

Dear Mr. Crowley,

Enclosed is Administrative Order No. WMD 02-11 issued this date to you as a result of inspections conducted on May 30, 2001, June 23, 2001, July 3, 2001, August 7, 2001, February 22, 2002, March 6, 2002, March 25, 2002, April 145, 2002, and May 3, 2002.

Should you have any questions regarding this order, please contact Michael Galuszka or me at 271-3899.

Sincerely,

Kenneth W. Marschner, Administrator
Waste Management Programs
Department of Environmental Services

CERTIFIED MAIL/RR #: 7099 3400 0002 9771 1030

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIC
Jennifer Patterson, Sr. Assistant Attorney General
Town of Effingham
Judith Crowley and Charles Crowley, Sr.



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456



May 22, 2002

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Charles Crowley, Jr.
Box 194A
South Effingham, NH 03882

Re: Administrative Order No. WMD 02-11

Dear Mr. Crowley,

Enclosed is Administrative Order No. WMD 02-11 issued this date to you as a result of inspections conducted on May 30, 2001, June 23, 2001, July 3, 2001, August 7, 2001, February 22, 2002, March 6, 2002, March 25, 2002, April 145, 2002, and May 3, 2002.

Should you have any questions regarding this order, please contact Michael Galuszka or me at 271-3899.

Sincerely,

Kenneth W. Marschner, Administrator
Waste Management Programs
Department of Environmental Services

CERTIFIED MAIL/RR #: 7099 3400 0002 9770 9624

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIC
Jennifer Patterson, Sr. Assistant Attorney General
Town of Effingham
Judith Crowley and Charles Crowley, Sr.



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



2000 Disposal, Inc.
HC 66 Box 194
South Effingham, NH 03882

Charles Crowley, Jr.
Box 194A
South Effingham, NH 03882

Re: Green Mountain Road, Effingham, NH

**ADMINISTRATIVE ORDER
No. WMD 02-11**

May 22, 2002

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to 2000 Disposal, Inc. and Charles Crowley, Jr. pursuant to RSA 149-M:15, I. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. 2000 Disposal, Inc. ("2000 Disposal") is a New Hampshire corporation having a mailing address of HC 66 Box 194, South Effingham, NH 03882.
3. Charles Crowley, Jr. is an individual having a mailing address of Box 194A, South Effingham, NH 03882.

C. STATEMENTS OF FACTS AND LAW

1. RSA 149-M authorizes DES to regulate the management of solid waste in the State of New Hampshire. RSA 149-M:7 authorizes the Commissioner of DES to adopt rules to implement solid waste management standards. Pursuant to this authority, the Commissioner has adopted Env-Wm 100-300 and Env-Wm 2100-3700 ("Solid Waste Rules").
2. Judith Crowley and Charles Crowley, Sr. are the owners of land on Green Mountain Road, Effingham, NH, more particularly described in a deed recorded in the Carroll County Registry of Deeds at Book 1869, Page 201, and identified on Effingham Tax Map 19 as Lots 15A and 15A-0001 (the "Site").
3. Charles Crowley, Jr. is the President of 2000 Disposal, Inc.

4. On May 15, 2001, DES personnel received a complaint from an Effingham town selectman alleging that 2000 Disposal and Charles Crowley, Jr. were operating an unpermitted solid waste transfer station.

5. On May 30, 2001, DES personnel investigated the complaint by conducting an inspection of the Site. The purpose of the inspection was to determine 2000 Disposal, Inc. and Charles Crowley, Jr.'s compliance status relative to RSA 149-M and the Solid Waste Rules.

6. RSA 149-M:4, XXII defines "solid waste" as "any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material."

7. RSA 149-M:4, XXI defines "refuse" in part, as "any waste product ... which is composed wholly or partly of such materials as ... brick, plaster or other waste resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance."

8. Env-Wm 102.42 defines "construction and demolition debris" in part, as "non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks."

9. During the May 30 inspection of the Site DES personnel observed the following:

- a. Ten empty dumpsters;
- b. Six dumpsters containing solid waste;
- c. One truck with putrescible solid waste;
- d. One truck with miscellaneous trash; and
- e. Several piles of metal, white goods, wood, plastic, and demolition debris on the ground.

10. The putrescible solid waste, miscellaneous trash, metal, white goods, wood, plastic, and demolition debris are solid wastes as defined by RSA 149-M:4, XXII.

11. RSA 149-M:4, IX defines a "[solid waste] facility" as "a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment or disposal of solid waste."

12. The Site constitutes a "[solid waste] facility" as defined by RSA 149-M:4, IX

13. RSA 149-M:9, I states that "No person shall construct, operate or initiate closure of a public or private facility without first obtaining a permit from [DES]."

14. A review of DES files shows that neither Judith and Charles Crowley, Sr., Charles Crowley, Jr., nor 2000 Disposal, Inc. has applied for or holds a permit to operate a solid waste facility at the Site.

15. Env-Wm 2108.06(d) specifies that a permit is not required to temporarily store solid waste while in transit to an authorized facility provided that the solid waste is not stored for longer than four days from the date of receipt.

16. On June 23, 2001, DES personnel conducted a follow-up inspection of the Site. In addition to the solid waste described in paragraph C.9, DES personnel observed a packer truck as well as a pile of cardboard on the ground at the Site.

17. During the June 23 inspection, DES personnel met with Charles Crowley, Jr. Mr. Crowley explained to DES personnel that his business operations at the Site consisted of residential and commercial trash removal. Mr. Crowley also informed DES personnel that demolition debris is brought to the Site and sorted. White goods (e.g. stoves, refrigerators, washers, dryers, etc.) are also brought to the Site and stored while awaiting proper disposal. DES personnel advised Mr. Crowley as to which activities would require a solid waste permit. DES personnel informed Mr. Crowley that collecting white goods and transferring solid waste would require a permit.

18. As a result of the June 23 inspection, DES issued a Report of Initial Complaint Investigation ("RICT") to 2000 Disposal and Charles Crowley, Jr. advising them to cease operating an unpermitted solid waste facility, and to properly dispose of all white goods located at the Site by July 16, 2001.

19. On July 3, 2001, DES personnel conducted a second follow-up inspection of the Site. DES personnel detected an odor of garbage as they approached the Site. During the July 3 inspection, DES personnel observed that the pile of white goods observed during the May 30 and June 23 inspections remained unchanged. DES personnel also observed two loads of putrescible garbage on the ground and several dumpsters of cardboard at the Site that had not been present at the Site during the previous inspection.

20. On August 7, 2001, DES personnel conducted a third follow-up inspection of the Site. DES personnel observed that the white goods and the putrescible garbage observed on June 23, 2001, and July 3, 2001, had been removed from the Site.

21. By letter dated August 8, 2001, DES personnel informed Mr. Crowley that he had achieved compliance with the Solid Waste Rules. The letter also advised Mr. Crowley that he could stage dumpsters and park vehicles at the Site without a solid waste permit, and that if solid waste was placed on the ground, transferred from vehicle/container to vehicle/container, or sorted, Mr. Crowley would then be required to apply for and obtain a solid waste permit.

22. On February 22, 2002, DES personnel conducted an inspection of the Site. DES personnel observed eight dumpsters of construction and demolition debris and putrescible garbage on the Site that had not been present during the previous inspections. During the inspection, DES personnel also observed two small burn piles on the ground which contained ash, partially burned metal, cans, paper, cardboard, and wood.

23. On March 6, 2002, DES personnel conducted a follow-up inspection the Site. During the March 6 inspection, DES personnel observed several dumpsters containing putrescible garbage and that painted wood was being burned in an outdoor fireplace. DES personnel informed Mr. Crowley that he could only burn clean wood; and that solid waste can not be burned. DES personnel also informed Mr. Crowley that storage of solid waste that is in transit to an authorized solid waste facility for greater than four days requires a permit. Mr. Crowley indicated that he would follow the Solid Waste Rules and not store solid waste at the Site for greater than four days. Mr. Crowley told DES personnel that he would remove the solid waste at the Site and requested two weeks to complete the removal.

24. On March 25, 2002, DES personnel conducted a second follow-up inspection of the Site. During the inspection, DES personnel observed 21 dumpsters at the Site. The dumpsters contained cardboard, construction and demolition debris, and putrescible household garbage. DES personnel also observed an outdoor fireplace. The fireplace contained ash, metal, plastic, and other partially burned solid waste.

25. On April 15, 2002, DES personnel conducted a third follow-up inspection of the Site. No one was present at the Site. During the inspection, DES personnel observed the following:

- a. 19 dumpsters containing putrescible household garbage;
- b. Nine empty dumpsters;
- c. One dumpster containing cardboard;
- d. Five dumpsters containing construction and demolition debris;
- e. Two dumpsters containing metal;
- f. Two packer trucks containing putrescible household garbage;
- g. One 10-wheel dump truck containing putrescible household garbage; and
- h. An outdoor fireplace containing partially burned painted wood, plastic, electrical wire, and garbage.

26. On May 3, 2002, DES personnel conducted a fourth follow-up inspection of the Site. No one was present at the Site. During the inspection DES personnel observed no improvement to the Site since the April 15, 2002 inspection. DES personnel also noted a pungent odor of decaying putrescible household garbage.

27. Solid waste was stored greater than four days from the date of receipt at the Site.

D. DETERMINATION OF VIOLATIONS

1. 2000 Disposal and Charles Crowley, Jr. have violated RSA 149-M:9, I by operating an unpermitted solid waste facility.
2. 2000 Disposal and Charles Crowley, Jr. have violated Env-Wm 2108.06(d) by storing solid waste while in transit for greater than four days without a permit.

E. ORDER

Based on the above findings, DES hereby orders 2000 Disposal and Charles Crowley, Jr as follows:

Immediately cease operating an unpermitted solid waste facility

2. **Within 14 days** of this Order, remove all solid waste, including wastes in dumpsters, trucks, and on the ground at the Site, to a permitted solid waste disposal facility.
3. Submit one written status report to DES **within 21 days**, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance, copies of any written plans or proceedings developed, and **copies of disposal receipts**.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Michael Galuszka, Waste Management Specialist
DES Waste Management Division
6 Hazen Drive
Concord, NH 03301
Fax: (603) 271-2456
e-mail: mgaluszka@des.state.nh.us

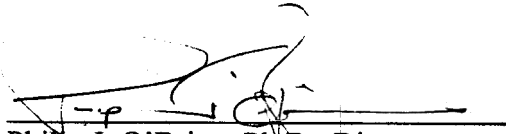
F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve 2000 Disposal or Charles Crowley, Jr. of the obligation to comply with the Order.

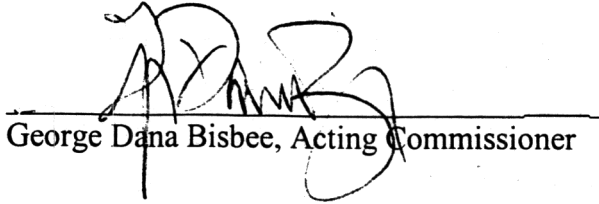
G. OTHER PROVISIONS

Please note that RSA 149-M provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 149-M:15 provides for civil forfeitures of up to \$25,000 for each day of a continuing violation, in addition to enforcement by injunctive relief. In the event that compliance is not achieved, DES may take further action against 2000 Disposal and Charles Crowley, Jr., including referring the matter to the New Hampshire Department of Justice for imposition of civil or criminal penalties. DES reserves the right to pursue administrative penalties for the violations noted above.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land



Philip J. O'Brien, Ph.D., Director
Waste Management Division



George Dana Bisbee, Acting Commissioner

Certified Mail/RRR: 7099 3400 0002 9770 9594

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIC
Jennifer Patterson, Sr. Assistant Attorney General
Town of Effingham
Judith Crowley and Charles Crowley, Sr.
Carroll County Registry of Deeds